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December 13, 2011

Cynthia Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

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Office of Proceedings

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Public Record

Re: Caddo Valley Railroad Company Abandonment: Docket No. AB
1076X and AB 1076 (Sub-No. 1X)

231482
Dear Ms. Brown:

231489

This letter responds to the December 8, 2011 letter filed on behalf of the Southwest Arkansas Regional Intermodal Authority (Intermodal Authority) by Governor Mike Beebe as well as the Board's Decision of this date, which plainly violates the Board's well settled criteria governing the granting of stays. Reconsideration is requested.

In the first place, the well-settled principles governing a stay have not been satisfied. In particular, a stay threatens Caddo Valley Railroad (CVRR), which is insolvent, with irreparable harm in that it places CVRR solely at risk if the market for scrap steel were to collapse. As the Board has acknowledged, CVRR has provided the Intermodal Authority with an up-to-date valuation of the line. On the other hand, the Intermodal Authority has not submitted an offer of financial assistance. Nor has it offered to provide a bond that would cover CVRR's potential losses if the scrap market were to collapse before its abandonment becomes effective. Nor does CVRR find any solace in the Governor's statement that "in no way does this letter imply any offer of financial assistance by the State of Arkansas".

Second, the requested extension of six months would violate the statutory requirements of 49 U.S.C. § 10904(c) and the Board's regulations governing offers of financial assistance. Although the Board has apparently denied the request for a six-month stay, there is no avoiding the simple fact that when it enacted 49 U.S.C. § 10904, Congress recognized the unfairness of stringing out the abandonment process so that speculative suggestions could be made regarding new, prospective business.

Although it has been suggested that there are prospective businesses that might be interested in the possibility of restored service, the Board should carefully note that CVRR spent nearly ten years trying to attract new business and expand its operations over the Norman Branch. It was unable to do so. Instead, it witnessed a collapse of business as shippers along the line discontinued their operations and/or shifted away from rail traffic. Rather ironically, when another rail carrier sought to acquire its stock so as to continue operations over the entire line, the Board prevented the sale of stock. As a result, CVRR was forced to cease all railroad operations in September 2010, and to file for abandonment over the northern segments of the line. As the record reflects, no shipper has opposed the abandonment.

The Board should also note that Arkansas Midland Railroad Company (AKMD), when offered the right of first refusal to acquire the entire Norman Branch line, declined the offer. Had AKMD, which is a savvy rail operator, been aware of any meaningful possibility of future rail business over the northern segment, it would have exercised the right to acquire the entire line.

In addition, the stay, in the absence of a timely OFA, places CVRR at risk of future legal liability at a time when it is insolvent and unable to generate any revenues. Moreover, interest will continue to accrue. It is obvious that such concerns have been disregarded.

CVRR once again states that it is willing to work with the Intermodal Authority to allow the right-of-way to be railbanked. Given the lack of any concrete evidence of future rail traffic and the dilapidated condition of the tracks, a recreational trail would likely be the best use of the right-of-way for the foreseeable future.

In closing, CVRR urges the Board to reconsider its Decision and, at a minimum, require the Intermodal Authority to post a bond that would hold CVRR harmless should the market value drop below the net liquidation value of \$3,304,255.57. Having failed to satisfy the stay criteria that are generally followed by the Board, the Intermodal Authority should not be given a free ride at CVRR's expense.

Yours truly,

A handwritten signature in black ink, appearing to read "R.H. Streeter", written over a horizontal line.

Richard H. Streeter

RHS:rs
Attachment

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cc: Cliff McKinney <cmckinney@qgtb.com>
Mike Bebee, Governor of Arkansas